

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
-vs-)	No. CR-05-036-F
)	
JON KENT RED ELK,)	
)	
Defendant.)	

ORDER FOR EXAMINATION

Upon consideration of the motion of the plaintiff (doc. no. 187), the United States of America,

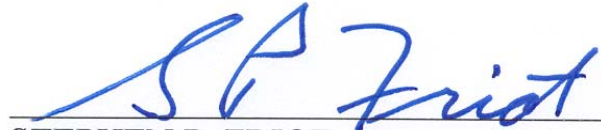
IT IS HEREBY ORDERED that the defendant, pursuant to Rule 12.2(c)(1)(B) of the Federal Rules of Criminal Procedure, be examined no later than September 12, 2005, as proposed, by Dr. Herman Jones.

IT IS FURTHER ORDERED that Dr. Jones shall prepare and file with the Court a report, with copies provided to counsel for the defendant and to plaintiff's counsel. Said report should include (1) the defendant's history; (2) a description of the psychiatric, psychological, and any other tests that were employed and their results; (3) the examiner's findings; and (4) the examiner's opinion as to diagnosis.

In entering this order, the court has carefully considered the contentions set forth in the defendant's response (doc. no. 203.) The court has concluded that the defendant's concerns about the validity of the proposed testing should be addressed in the context of a challenge (if any is made) to the admissibility of the tests (or of testimony based on the tests and the related examination activities) after the tests have

been administered. Defendant has cited no authority for his request that counsel or a defense expert be present during the testing procedure (response, p. 9), and that request is denied. The presence of a third party would present an unacceptable risk of impairment of the efficacy of the testing and the related examination.

Dated this 31st day of August, 2005.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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